

**TITLE 9, CALIFORNIA CODE OF REGULATIONS**  
**Medi-Cal Mental Health Plan Contractual Obligations**  
**Notice published July 2, 2010**

**NOTICE OF PROPOSED RULEMAKING**

NOTICE IS HEREBY GIVEN that the Department of Mental Health (DMH) is proposing to take the action described in the Informative Digest after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

DMH will hold a public hearing starting at 10:00 a.m. on August 16, 2010, at the California Department of Water Resources Auditorium located at 1416 9<sup>th</sup> Street, 1<sup>st</sup> Floor in Sacramento, California. The Auditorium is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. DMH requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DMH. Comments may also be submitted by facsimile (FAX) at 916-651-3852 or by e-mail to [Regulations@dmh.ca.gov](mailto:Regulations@dmh.ca.gov). The written comment period closes at **5:00 p.m. on August 16, 2010**, or at the conclusion of the public hearing, if any, whichever comes later, to the contact person listed below. DMH will consider only comments received at DMH offices or at the public hearing, by that time. Submit comments to:

Stephanie L. Fields  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

Backup Contact:

Heidi Lehrman  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-3847

## **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Sections 14680 of the Welfare and Institutions Code, the Department of Mental Health (DMH) is seeking changes to Title 9, Division 1, Chapter 11, of the California Code of Regulations as follows: Amend Article 1, Section 1840.112, Amend Article 2, Sections 1850.213, 1830.215, 1820.220 and 1820.225, Amend Article 3, Section 1810.317, 1810.321, 1810.323, 1810.326, 1810.345, 1810.350, 1810.360, 1810.365, 1810.375, 1810.376 and 1810.380 and Amend Article 4, Sections 1810.425, 1810.430, 1810.435, 1810.436, 1810.438 and 1810.439. This proposed action implements, interprets, and makes specific Welfare and Institutions Code sections 5650, 5718, 5719, 5724, 5767, 5775, 5776, 5777, 5778, 14005.9, 14007.5, 14011, 14024, 14134, 14142, 14682, 14683, and 14684; Health and Safety Code 1340 et seq.; Title 42 United States Code sections 1396 and 1396a.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

This rulemaking action clarifies and makes specific the administrative requirements from contracts with DMH for the provision of Specialty Mental Health Services not mandated by statute or regulations and identifies contractual requirements that would be more appropriately codified in regulations.

DMH administers the Medi-Cal Specialist Mental Health Services Consolidation Waiver Program via a federal 1915(b) waiver of specific provisions of Title XIX of the Social Security Act. The waiver was originally approved by the Centers for Medicare and Medicaid Services (CMS) in 1995 and has been renewed on an ongoing basis.

Under the Medi-Cal Specialty Mental Health Services Consolidation Waiver Program, Mental Health Plans (MHPs) are required to contract with DMH for the provision of Specialty Mental Health Services (defined at California Code of Regulations (CCR), Title 9, section 1810.247) to Medi-Cal recipients. An MHP may be a county, counties acting jointly, or another governmental or non-governmental entity. DMH and MHPs share the financial risk of providing services.

During fiscal year (FY) 2007-08, DMH convened a workgroup to review the contract for relevance. The workgroup had representation from the County Mental Health Directors Association (a non-profit organization comprised of county mental health directors) and DMH staff. The workgroup's chief concern was to reduce the MHPs' administrative burden by removing requirements from the contract not mandated by statute or regulation and identifying contractual requirements that would be more appropriately codified in regulation.

Supporting documentation and relevant materials DMH relied upon in the Initial Statement of Reasons and/or the Informative Digest include:

Medi-Cal Mental Health Plan Boilerplate Contracts (ending June 2009).

This Informative Digest accompanies the proposed regulations to amend 22 regulations located in the California Code of Regulations Title 9, Division 1, Chapter 1; Article 1, General; Article 2, Administration and Provision of Services; and Article 4, Standards.

**DMH HAS MADE THE FOLLOWING INITIAL DETERMINATIONS:**

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: DMH is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses with California; or
- (3) affect the expansion of business currently doing business within California.

Significant effect on housing costs: None.

**BUSINESS IMPACT/SMALL BUSINESSES**

The Department of Mental Health has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposal does not affect small businesses as defined by section 11342.610.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (1)(13), DMH must determine that no reasonable alternative which it will consider or that will otherwise be identified and brought to its attention will be more effective in carrying out the purpose for which this action is proposed or will be as effective and less burdensome to affect private persons than the proposed action described in this Notice.

## **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Stephanie L. Fields  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-1446

Backup Contact:

Heidi Lehrman  
Department of Mental Health  
1600 9th Street, Room 435  
Sacramento, CA 95814  
(916) 651-3847

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, or other information upon which the rulemaking is based to Ms. Fields at the above address. Comments may also be submitted by facsimile (FAX) at (916) 651-3852 or by e-mail to [Regulations@dmh.ca.gov](mailto:Regulations@dmh.ca.gov). Comments must be submitted prior to **5:00 p.m. on August 16, 2010**.

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

DMH has available the rulemaking file for inspection and copying at its office at 1600 9th Street room 435, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based. These documents may also be viewed and downloaded from DMH's website at [www.dmh.ca.gov](http://www.dmh.ca.gov).

Following the public comment period DMH may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed

to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Fields at the above address or on DMH's website at [www.dmh.ca.gov](http://www.dmh.ca.gov).

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